

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated April 27, 2007 (hereinafter Office Action) have been considered but are believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully traverses each of the prior art rejections (§§ 102(e) and 103(a)) based at least in part on the teachings of U.S. Patent No. 6,658,231 to Nakatsuyama (hereinafter “Nakatsuyama”) because Nakatsuyama does not teach or suggest each of the purported claim limitations. For example, Nakatsuyama does not teach the limitations directed to a content item, as claimed in each of the independent claims. In contrast to the assertion at page two, neither of Nakatsuyama’s index data signal nor program data signal would correspond to the claimed content item as evidenced by the asserted alignment of the teachings of Nakatsuyama to the claimed limitations. For a better understanding, the purported alignment of Nakatsuyama, using independent Claim 11 as an example, is shown in the chart below.

Claim 11 limitations	Nakatsuyama
... broadcasting system is further configured to attach one or more content items to a broadcasting time line of the broadcast media stream ...	index data signal or program data signal corresponds to the one or more content items as discussed at col. 7, lines 57-65 and col. 13, line 62 – col. 14, line 3
... user terminal is further configured to present the received content item in the user terminal during the presentation of the broadcasted broadcast media stream ...	Same as above.

First, the program data signal cannot correspond to the claimed content item because it is not attached to a broadcast media stream, as claimed. Rather, the program data signal must be asserted as corresponding to the claimed broadcast media stream as no other element has been identified that would correspond to a broadcast media stream. For example, the program data signal is the only identified signal that carries broadcast media. As such, the program data signal is not, and cannot be, attached to itself. If the program data signal is

asserted as corresponding to the claimed content item, no teachings have been shown to correspond to the claimed broadcast media stream. Nakatsuyama's program data signal cannot correspond to both the claimed content item and broadcast media stream; therefore, the asserted alignment of Nakatsuyama is deficient with respect to at least some of the claim limitations. Without a presentation of correspondence to each of the claimed limitations, the prior art rejections are improper.

Second, as pointed out previously, the index data signal also does not correspond to the claimed content item. For example, there is no teaching that the index data of the index data signal is presented to a user during the presentation of the program data signal (with the program data signal being asserted as corresponding to the claimed broadcasted broadcast media stream). While index data is received, the only received signal that is presented is the requested program (column 2, lines 52-64). Rather, the index data merely contains information a user's receiver requires to correctly tune, receive, download, and output selected programs (column 5, lines 59-62). Moreover, the personalized information of the index data signal in the push-pull embodiment cited at columns 13-14 would not correspond to the claimed content item at least because the personalized information (email or index data from another user) is attached by a user and not the broadcasting system, as claimed (column 13, lines 52-54 and column 14, lines 2-3). None of the cited teachings of Nakatsuyama discuss a portion of the index data signal that is attached by a broadcasting system and presented during the presentation of the broadcasted broadcast media stream to which it was attached. Therefore, this alternative alignment of Nakatsuyama also fails to correspond to each of the claimed limitations. Without a presentation of correspondence to each of the claimed limitations, the prior art rejections are improper.

With particular respect to the § 102(e) rejection, Applicant notes that in order to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed

invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain the rejection based on 35 U.S.C. § 102. Applicant respectfully submits that Nakatsuyama does not teach every element of independent Claims 1, 11 and 21 in the requisite detail, and therefore fails to anticipate Claims 1-4, 6, 8-14, 16, 18-24 and 26.

Moreover, the asserted correspondence of Nakatsuyama's index data is unsupported and improper. As set forth in the Specification, the claimed content item is related to the content of a broadcast media stream and provides a supplementary service (e.g., program information, reports, competitions) delivered in addition to a traditional media stream and presented to a user during the broadcast of the traditional broadcast media stream (paragraphs [0024] and [0027]). In contrast, Nakatsuyama's index data merely enables a receiver to receive and output selected programming and is unrelated to the content of any associated programming. *See, e.g.*, column 5, lines 59-62 and column 7, lines 63-65. MPEP § 904.01 requires that the claims be interpreted consistent with the specification; however, the asserted index data of Nakatsuyama is not consistent with the discussions of the claimed content item set forth in the Specification. Further, the Examiner has not shown how the asserted index data of Nakatsuyama would correspond to the claimed content item. This lack of correspondence is further illustrated by the improper rejection of dependent Claims 8 and 18 where the Examiner fails to identify how the tuning data (index data) of the cited portion at column 9, lines 48-67 is at least one of a text, an audio, a video, an image, and a multimedia presentation. As discussed above, the alternative assertion of correspondence being provided by the program data signal (at page two of the Office Action) is also improper as it fails to correspond to the limitations that the content item be attached to a broadcast media stream. Without a presentation of correspondence to each of the claimed limitations, at least the § 102(e) rejection is improper. Applicant accordingly requests that the rejection be withdrawn.

In addition, dependent Claims 2-4, 6, 8-10, 12-14, 16, 18-20, 22-24 and 26 depend from independent Claims 1, 11 and 21, respectively, and also stand rejected under 35

U.S.C. § 102(e) as allegedly being anticipated by Nakatsuyama. While Applicant does not acquiesce with the particular rejections to these dependent claims, the rejections are also improper for the reasons discussed above in connection with independent Claims 1, 11 and 21. These dependent claims include all of the limitations of independent Claims 1, 11 and 21 and recite additional features which further distinguish them from the cited reference. Therefore, the rejection of dependent Claims 2-4, 6, 8-10, 12-14, 16, 18-20, 22-24 and 26 is improper. Applicant accordingly requests that the § 102(e) rejection be withdrawn.

With respect to the § 103(a) rejections of dependent Claims 5, 7, 15, 17 and 25 based upon Nakatsuyama in view of U.S. Patent No. 6,975,835 to Lake *et al.* and U.S. Publication No. 2002/0105976 by Kelly *et al.*, respectively, Applicant respectfully traverses. As discussed above, Nakatsuyama fails to correspond to the limitations of independent Claims 1, 11 and 21. The further reliance on Lake *et al.* and Kelly *et al.* does not overcome the above-discussed deficiencies in Nakatsuyama as neither Lake *et al.* nor Kelly *et al.* have been shown to teach or suggest use of a content item as claimed. Thus, the asserted combinations of the teachings of Nakatsuyama with Lake *et al.* and Kelly *et al.*, respectively, do not teach each of the limitations of dependent Claims 5, 7, 15, 17 and 25, and the rejections should be withdrawn.

It should be noted that Applicant does not acquiesce to the Examiner's statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, inherent, obvious design choices, common knowledge at the time of Applicant's invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.152US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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